

REMARKS

1. Claims 1-9 and 11-28 are pending in the application. Of these, claims 5-7, 14-16, 20, 21 and 26-28 stand withdrawn, claims 1-4, 8-13, 17-19 and 22-25 stand rejected. This communication amends claims 1 and 13, cancels withdrawn claims 5-7, 14-16, 20, 21 and 26-28, and adds claim 29.

Reconsideration of this application is respectfully requested.

2. The examiner states that the application contains claims drawn to an invention non-elected with traverse in paper no. 0105. This statement is incorrect, as the election made in the referenced paper was made without traverse. Moreover, the examiner acknowledges that the election was made without traverse in the Office Action mailed on March 9, 2005.

In any case, non-elected/withdrawn claims 5-7, 14-16, 20, 21 and 26-28 have been cancelled in this communication. The cancellation of these claims is made without prejudice or disclaimer of the subject matter contained therein. The applicant reserves the right to refile claims 5-7, 14-16, 20, 21 and 26-28 in a divisional application.

3. Claim 10 was inadvertently canceled in the communication filed on June 13, 2005. New claim 29 reinstates the subject matter of claim 10.

4. The examiner alleges that the amendment filed on June 13, 2005, which amended claim 1 to recite "a shield buried within the at least one walls of the channel member and the cover", introduces new matter into the disclosure. As a result, the examiner objects to claim 1 and rejects claims 1-4 and 8-12 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. It is noted that the examiner only relies on the written description of the specification to support the new matter allegation and does not state that the drawings were considered.

The issue of whether the subject matter of a claim is supported by the disclosure of an application as filed, is a written description requirement issue, not a claim objection issue and not an enablement issue as alleged by the examiner. See MPEP 2163.01. The written description requirement issue is determined by the following inquiry: Does the specification (e.g., written description and drawings) convey with reasonable clarity to those skilled in the art that, as of the

filing date sought, that the applicant was in possession of the invention, as now claimed? It is respectfully submitted that the specification of the present application clearly conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, that the applicant was in possession of the invention, as claimed in claim 1 of the June 13, 2005 amendment.

The term "buried" replaced the term "disposed" in the June 13, 2005 amendment. The term buried has a number of meanings according to Webster's New Universal Unabridged Dictionary, Deluxe Second Edition:

1. to inter; to place (a deceased person) in the earth or in the sea... .
2. to cover from sight by placing on; to hide; to conceal.
3. to sink; to immerse; to cause to be wholly absorbed in... .
4. to put away from one's life... .

The examiner alleges that Merriam-Webster's Collegiate Dictionary, tenth edition, also defines the word "bury" as "to dispose of by depositing in."

In any case, although the written description of the application uses the phrase "disposed" instead of the term "buried", FIG. 4 of the drawings application clearly shows shields 241 and 242 buried (i.e., covered, hidden or concealed in the context of the present application) within at least one of the walls of the channel member and the cover so that the shields are not exposed to the interior space of the channel member. Accordingly, the specification of the present application clearly conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, that the applicant was in possession of the invention, as claimed in claim 1 of the June 13, 2005 amendment.

This issue is now moot, however, as claim 1 has been amended to recite "a shield disposed within the at least one walls of the channel member and the cover...the shield not being exposed to the interior space defined by the channel member..." Claim 13 has been similarly amended. FIG. 4 of the drawings application clearly shows shields 241 and 242 disposed within at least one of the walls of the channel member and the cover so that the shields are not exposed to the interior space of the channel member.

In view of the foregoing, withdrawal of this objection and rejection is respectfully requested.

5. Claims 1-4 and 8-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,126,507 to Kirma. In support thereof, the examiner states among other things that Kirma

discloses "...a shield (73 metal rail and in 70 metallized plastic) buried within the at least one walls of the channel member and the cover..."

This rejection is respectfully traversed because the shield in Kirma is not within the wall of the Kirma cover. The shield identified as the metal rail 73 in Kirma, is disposed on the wall of the covering 71. Kirma states in column 4, lines 20-21: "[a] continuous metal rail 73 is inserted into the covering 71..." In addition, Figs. 10-12 of Kirma show the metal rail inserted into the covering and disposed on a wall thereof.

The examiner argues that the term "buried" means "to dispose of by depositing in" and that the arrangement of Kirma meets this definition. The applicant respectfully disagrees with this interpretation of Kirma. Kirma is not disposing of (i.e., discarding) the metal rail by depositing it in the covering. Kirma is using the metal rail for shielding purposes.

Thus, it is apparent that the metal rail in Kirma is not disposed or buried within a wall of the covering, as alleged in the Office Action.

To make this distinction clearer, claim 1 has been amended to recite "...the shield not being exposed to the interior space of the channel member..." Kirma clearly fails to disclose this feature. Instead, Kirma discloses in Fig. 8 the metal rail 73 being exposed to an interior space defined by lower element 70. Hence, currently amended claim 1 is not anticipated by Kirma and therefore, is clearly patentable.

Dependent claims 2-4 and 8-12 include all the features of currently amended claim 1 and therefore, are patentable for at least the same reasons as set forth respecting claim 1.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

6. Claims 13, 17-19 and 22-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,084,180 to DeBartolo, Jr. et al. (DeBartolo) in view of Kirma.

In response, claim 13 has been amended to recite "...the shield not being exposed to the interior space defined by the second channel member." DeBartolo in view of Kirma fail to teach or suggest this structure. Specifically, the examiner relies on Kirma for teaching the claimed shield. As discussed above, the shield in Kirma is not within the wall of the Kirma cover, as is required in claim 13. Instead, the shield, identified as the metal rail 73 in Kirma, is disposed on the wall of the covering 71. In addition, Kirma clearly fails to disclose the shield not being exposed to the interior space defined by the second channel member, as currently required in

claim 13. Kirma, in contrast, discloses in Fig. 8 the metal rail 73 being exposed to an interior space defined by a lower element 70. Hence, DeBartolo in view of Kirma fail to arrive at the invention of claimed 13, as currently amended. Therefore, claim 13 is now clearly patentable over DeBartolo in view of Kirma.

Dependent claims 17-19 and 22-25 include all the features of currently amended claim 13 and therefore, are patentable over DeBartolo in view of Kirma for at least the same reasons as set forth respecting claim 13.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

7. Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1-4, 8-13, 17-19, 22-25 and 29 are in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicants' undersigned attorney at his number listed below.

8. No fees are due with this communication. The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17, which are associated with this communication, or credit any overpayment to Deposit Account No. 50-2061.

Respectfully submitted,



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